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Agenda item 54
QUESTION OF CYPRUS

SECURITY COUNCIL
Forty-ninth year

Letter dated 1 February 1994 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a letter dated 1 February 1994 addressed to you by H.E. Mr. Osman Ertuğ, Representative of the Turkish Republic of Northern Cyprus (see annex).

I should be grateful if the text of the present letter, and its enclosures, which also contain letters dated 20 and 28 January 1994, sent to Your Excellency by H.E. Mr. Rauf R. Denktaş, President of the Turkish Republic of Northern Cyprus, would be circulated as a document of the General Assembly, under agenda item 54, and of the Security Council.

(Signed) İnal BATU
Ambassador
Permanent Representative

Annex

Letter dated 1 February 1994 from Mr. Osman Ertuğ
to the Secretary-General

I have the honour to annex hereto two self-explanatory letters dated 20 and 28 January 1994, respectively, addressed to Your Excellency by H.E. Mr. Rauf R. Denktaş, President of the Turkish Republic of Northern Cyprus.

I would be grateful if the present letter and its enclosures are circulated as a document of the General Assembly, under agenda item 54, and of the Security Council.

(Signed) Osman ERTUĞ
Representative
Turkish Republic of Northern Cyprus

Enclosure I

Letter dated 20 January 1994 from H.E. Mr. Rauf Denktaş to the Secretary-General

Thank you for your letter of 17 December 1993. Following the elections that took place on 12 December 1993, the Parliament and the Government have now assumed office. The programme of the coalition Government, which was approved by the Parliament, empowers me again to act as negotiator in the intercommunal negotiating process. I have pleasure in informing you that I have now resumed this task. I would also like to take this opportunity to thank you for slowing down the negotiating process during the election period.

I am well aware that in your efforts to facilitate an overall settlement in Cyprus, as endorsed by the Security Council gives priority at this stage to measures designed to promote mutual confidence between the two sides.

The Turkish Cypriot side has been advancing the view that the deep crisis of confidence between the two sides is the main cause for the absence of progress in efforts towards achieving an overall settlement since 1968. In fact, Your Excellency has rightly pointed out in your report of 19 November 1992 (S/24830) that it is difficult to envisage any successful outcome to the talks for as long as this situation prevails. The Turkish Cypriot side approaches the agenda with these considerations and is prepared to take the appropriate steps in a constructive manner.

We have conveyed to you on various occasions our views and understandings, both orally and in writing, with regard to the confidence-building measures. We are pleased to observe that Your Excellency shares most of our understandings. We have noted that most of the understandings and concepts to which we attach great significance have been included in your reports submitted to the Security Council and in the reports of the team of international experts, the contents of which you have brought to our attention with your letter of 17 December 1993. We are now carrying out an in-depth study on these reports.

I would like to share with you once again our understandings.

One of the basic principles mutually agreed in the negotiating process is that, in the search for a comprehensive settlement, all aspects of the Cyprus question should be dealt with as an integrated whole. It goes without saying that efforts aimed at building confidence between the two sides should not in any way depart from this basic principle. We have noted that the guidelines given to the teams of international experts on the confidence-building measures package confirm this principle by specifying that the confidence-building measures package is not an end in itself nor the first of a series of mini-packages and that the integrated-whole approach to the search for a comprehensive solution to the Cyprus problem will not be abandoned. We share the opinion expressed by the United Nations that confidence-building measures are intended to facilitate the political process towards an overall settlement.

/...

As stated in paragraph 13 of your report of 1 July 1993 (S/26026), given the purpose of confidence-building measures, it is indispensable that neither side seek any political advantage or require the other side to make political concessions in this context. In this regard, it has been made clear that neither side should be asked to adopt measures that would require it, directly or indirectly, to change its position on the political status of the other. Furthermore, the package requires that neither side compromise on its substantive political positions.

We also note your assessment that the practical effect of the implementation of the confidence-building measures package would be to lift commercial and economic obstacles, as well as those related to overseas travel, encountered by the Turkish Cypriot side.

We attach great importance to your assurances that the benefits and opportunities to accrue to the Turkish Cypriot side from the package would be significant, equal, proportionate and guaranteed.

Security concerns are vital to the Turkish Cypriot side in the search for an overall settlement. This has also been confirmed by the United Nations. The Turkish Cypriot side attaches particular importance and to its security concerns within the context of both the confidence-building measures and an overall settlement. We have particularly brought to your attention our security concerns regarding Varosha in the paper containing our questions handed to your representatives on 22 October 1993. I feel confident that our security concerns with regard to Varosha will be given by Your Excellency the due importance they deserve.

A further understanding is that the implementation of the confidence-building measures would in no way hinder the use of the existing limited capabilities enjoyed by the Turkish Cypriot side, but rather yield additional significant benefits. In fact, this has been repeatedly confirmed to us by the United Nations Secretariat. This is essential for the Turkish Cypriot people properly to perceive and appreciate the benefits to be drawn from the package.

Another point to which we attach significance is the Greek Cypriot agreement as confirmed by paragraph 24 of your report of 1 July 1993 that both sides would commit themselves to take no action of any kind that would in any way prevent, or adversely affect, the free movement of people or goods through Nicosia International Airport to and from both sides. This, in fact, has been introduced as a provision in confidence-building measures package concerning Nicosia International Airport.

With regard to the "fenced area" of Varosha, the principal objective of the confidence-building measures is that the area should have a special character for intercommunal contact, cooperation and trade for the benefit of both communities. In this respect, it is imperative that adequate assurances be given regarding the benefits that will accrue to the Turkish Cypriot side. It is obvious that this issue will also have to be discussed in detail during the negotiating process.

With regard to the implementation of the confidence-building measures package we are sure that the existing link between the "fenced area" of Varosha and Nicosia International Airport will be borne in mind. You will appreciate the need for measures that would discourage either side from taking action that would harm the benefits to be drawn from the confidence-building measures by the other. While considering the package, a key issue which needs clarification is that, in the event of the Turkish Cypriot side being obstructed from enjoying the benefits of Nicosia International Airport, then the question arises as to the status of the "fenced area" of Varosha. Our view is that, in such an event, the United Nations administration will come to an end and the area in question would revert to the Turkish Cypriot administration, pending an overall settlement.

In addition to the benefits that would accrue from measures and arrangements with regard to Varosha, I consider it unnecessary to reiterate the importance of the measures and arrangements with respect to Nicosia International Airport in lifting, through practical measures, the embargo that has been weighing so heavily on the Turkish Cypriot side.

In this connection, we attach great significance to the arrangements provided for in the package and confirmed in paragraph 23 of your report of 1 July 1993, that the Turkish Cypriot airline, as an airline registered in Turkey, will use Nicosia International Airport under the formula contained in the confidence-building measures package for the unhindered overseas travel of, and trade by the Turkish Cypriots. Needless to say, in line with the spirit of the confidence-building measures package, the citizens of the Turkish Republic of Northern Cyprus will be able to travel unhindered to and from overseas destinations through Nicosia International Airport. It is clearly understood and confirmed by the United Nations that these arrangements concerning Nicosia International Airport will in no way affect the continued use of Ercan airport and related arrangements as hitherto.

I would like to share with you, Mr. Secretary-General, our view that, if the other 12 items of the confidence-building measures package were to be implemented while the talks are continuing, this would further facilitate the process of reaching an agreement on the package.

I am pleased to inform you that I am ready to cooperate with you with a view to reaching an agreement on the confidence-building measures package, which we accept in principle in the light of our understandings stated above. To this end, I am prepared to start talks with the Greek Cypriot leader, Mr. Glafcos Clerides.

I would also like to reiterate my view that, as suggested in your letter of 17 December 1993, the package should be discussed in meetings of the two leaders in Nicosia with your representatives.

I would, of course, be pleased to meet you in response to any invitation which you may wish to extend to me at any convenient time.

Finally, I would be grateful if you could kindly extend to the international team of experts, which you have sent to Cyprus, our appreciation and thanks for their devoted efforts and useful report.

(Signed) Rauf R. DENKTAŞ
President

Enclosure II

Letter dated 28 January 1994 from Mr. Rauf Denktaş
to the Secretary-General

Further to my letter of 20 January 1994 and with reference to your letter of 17 December 1993 and the press release issued in Nicosia on 26 January 1994 concerning the meetings of your Special Representative, Mr. Joe Clark, in the island, I would like to bring the following to your knowledge.

I hereby confirm that the Turkish Cypriot side accepts, in principle, the package of confidence-building measures as set out in paragraphs 37, 38, 42 and 43 of your report of 1 July 1993 (S/26026). I am ready to discuss the modalities for the implementation of that package with the Greek Cypriot leader.

(Signed) Rauf R. DENKTAŞ
President

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THE SITUATION IN BOSNIA
AND HERZEGOVINA

SECURITY COUNCIL
Forty-ninth year

Letter dated 6 February 1994 from the Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the statement of the Federal Ministry of Foreign Affairs of the Federal Republic of Yugoslavia concerning the massacre in Sarajevo on 5 February 1994.

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly under agenda item 42 and of the Security Council.

(Signed) Dragomir DJOKIC
Chargé d'affaires a.i.

Annex

STATEMENT OF THE FEDERAL MINISTRY OF FOREIGN AFFAIRS OF THE FEDERAL REPUBLIC OF YUGOSLAVIA DATED 5 FEBRUARY 1994

The Federal Ministry of Foreign Affairs of the Federal Republic of Yugoslavia received with indignation the news of the latest massacre of innocent civilians in Sarajevo. The Federal Ministry of Foreign Affairs condemns this crime, expresses regret in the wake of the loss of innocent lives and stresses the need that the truth be urgently established and the perpetrators identified and severely punished.

This criminal act represents a vicious attack on the peace process by resorting to tactics that worked successfully so far.

We appeal to all actors of the peace process to prevent any political or media manipulation of this tragic event and to invest vigorous efforts in order to establish the full truth, prevent any obstruction of the peace process and demonstrate perseverance and resolve while striving to achieve a just and lasting peace in the former Bosnia and Herzegovina.

The Federal Republic of Yugoslavia shall, as has been the case so far, continue to make its full contribution to the peace process and to ending the war in the former Bosnia and Herzegovina.

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THE SITUATION IN BOSNIA
AND HERZEGOVINA

SECURITY COUNCIL
Forty-ninth year

Letter dated 7 February 1994 from the Permanent Representative of Slovenia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the four-point appeal approved by the Government of Slovenia on 7 February 1994 (see annex).

I would be grateful if you would have the present letter and its annex circulated as a document of the Security Council and of the General Assembly, under agenda item 42.

(Signed) Danilo TÜRK
Permanent Representative

Annex

FOUR-POINT APPEAL BY THE GOVERNMENT OF SLOVENIA
DATED 7 FEBRUARY 1994

The Government of Slovenia condemns the attack on civilians in Sarajevo on 5 February 1994. This outrageous crime, the latest in a sadly long series, provides yet another reason for a vigorous effort to end the humanitarian, political and economic catastrophe which has been gripping the Republic of Bosnia and Herzegovina unconscionably long.

We appeal to the international community categorically to demand that the following requirements be met in order to achieve a peace settlement:

1. The killing of civilians - children, women and men - should be stopped forthwith. Therefore, heavy weapons should immediately be withdrawn from the vicinity of Sarajevo and other areas with a high concentration of civilian population.

2. The suffering of the civilian population in the Republic of Bosnia and Herzegovina should be addressed efficiently by unimpeded delivery of humanitarian assistance.

3. Private property should be restored and places of worship safeguarded.

4. Return of the territories seized by force and ethnic cleansing should begin without delay. Deeds are necessary as a proof of good faith and as a basis for peace talks to proceed with a view to reaching a peace agreement for Bosnia and Herzegovina.

This appeal is addressed to all Governments to join and support and to those directly involved to respect and accept as the core of a true effort for peace.

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BUILDING A PEACEFUL AND BETTER WORLD THROUGH SPORT

Letter dated 5 February 1994 from the Permanent Representative of Greece to the United Nations addressed to the Secretary-General

I have the honour to transmit to you herewith the text of a solemn appeal made on 4 February 1994 by H.E. Mr. Andreas Papandreou, Prime Minister of Greece, in connection with the observance of the Olympic Truce-Ekecheiria.

I should be grateful if you would have the text of this solemn appeal circulated as a document of the General Assembly, under the item "Building a peaceful and better world through sport".

(Signed) Antonios EXARCHOS
Ambassador
Permanent Representative

Annex

SOLEMN APPEAL MADE ON 4 FEBRUARY 1994 BY THE PRIME MINISTER OF GREECE IN CONNECTION WITH THE OBSERVANCE OF THE OLYMPIC TRUCE-EKECHEIRIA

I address an appeal on behalf of the Greek athletes to all the political and military leaders whose countries suffer from armed conflicts, to respect and observe the Olympic Truce-Ekecheiria in accordance with the resolutions of the forty-eighth session of the United Nations General Assembly, and to cease all hostility and abstain from any act of violence from 5 February to 6 March 1994, the period during which the XVII Olympic Winter Games will take place at Lillehammer, Norway.

The Olympic Truce-Ekecheiria, as conceived by the Ancient Greeks, was the conclusion of the spirit of solidarity and understanding among peoples and offered the opportunity for the Olympic Games to be held normally by suspending any armed conflict.

The United Nations, also inspired by the Greek traditions on Ekecheiria, has unanimously decided to proclaim 1994 as International Year of Sport and the Olympic Ideal and to call upon all belligerents to respect the Olympic Truce-Ekecheiria, the observance of which undoubtedly constitutes an invaluable contribution of us all to peace, dialogue, understanding and the quest for permanent and lasting solutions to international disputes.

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THE SITUATION IN BOSNIA AND
HERZEGOVINA

SECURITY COUNCIL
Forty-ninth year

Letter dated 8 February 1994 from the Permanent Representative of Pakistan to the United Nations addressed to the Secretary-General

I have the honour to append herewith a statement adopted by the member States of the Organization of the Islamic Conference on the latest massacre of Bosnian civilians in Sarajevo by the Serb gunners on 5 February 1994 (see annex).

I would appreciate if you could kindly have the text of the present letter and its annex circulated as a document of the General Assembly, under agenda item 42, and of the Security Council.

(Signed) Jamsheed K. A. MARKER
Ambassador and Permanent Representative
of Pakistan to the United Nations
and Chairman of the OIC Contact Group on Bosnia
and Herzegovina in New York

ANNEX

Statement adopted on 8 February 1994 by the member States of the Organization of the Islamic Conference on the latest massacre of Bosnian civilians in Sarajevo

The Governments and the peoples of member States of the Organization of the Islamic Conference (OIC) express their outrage and strong condemnation at the barbaric massacre of Bosnian civilians in Sarajevo by the Serbian gunners on 5 February 1994, which left over 66 persons martyred and over 200 seriously injured. The fact that this terrorist bombing took place a day after a similar attack on the suburb of Dobrinja, killing nine and wounding 26 people, and has been a part of an ongoing genocidal campaign, reflects open defiance and contempt of the will of the international community by the Serbian side.

The Governments and the peoples of the member States of the OIC express their heartfelt anguish, condolences and sympathy to the Government and the people of Bosnia and Herzegovina and their bereaved families. They express their deep disappointment at the lack of resolute action by the international community, as mandated to defend the civilian population of Sarajevo, a city declared as a "safe area" by Security Council resolution 824 (1993), from the savage aggression of the Bosnian Serbs.

The OIC member States reiterate that Security Council resolution 836 (1993) provides a clear legal framework for using all necessary means, including the use of air strikes against the Serbian positions, particularly those around Sarajevo. In this context, they welcome the letter sent by the Secretary-General of the United Nations to the Secretary-General of the North Atlantic Treaty Organization (NATO), requesting him to obtain authorization from the NATO Council for launching air strikes against the artillery positions in and around Sarajevo, and urge NATO to act accordingly for securing Serbian compliance with the relevant resolutions of the Security Council. They appeal to the leadership of the member States of NATO to uphold the will of the international community without further loss of time.

They reaffirm the Declaration adopted by the Ministerial Meeting of the OIC Contact Group on Bosnia and Herzegovina, held at Geneva on 17 January 1994. They express their resolve that, in case the international community fails to fulfil its moral, political and legal responsibility to use air strikes against the Serbian aggressors in the immediate future, they would launch a renewed and vigorous campaign to ensure that the Republic of Bosnia and Herzegovina is not prevented from exercising its inherent right to self-defence under Article 51 of the Charter of the United Nations.

The OIC member States will remain actively seized of the matter.

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THE SITUATION IN BOSNIA AND HERZEGOVINA

SECURITY COUNCIL
Forty-ninth year

Letter dated 7 February 1994 from the Permanent Representative of Algeria to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of the statement made on 6 February 1994 by the spokesman for the Ministry of Foreign Affairs of Algeria in reaction to the shelling of the central market in Sarajevo (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the General Assembly, under agenda item 42, and of the Security Council.

(Signed) Ramtane LAMAMRA
Ambassador
Permanent Representative

ANNEX

Statement made on 6 February 1994 by the spokesman for the Ministry of Foreign Affairs of Algeria

Algeria learnt with horror and consternation of the shelling of the central market in Sarajevo. This barbarous and premeditated act caused the massacre of dozens of innocent persons, mostly women and children.

Algeria categorically condemns this abject act, which is an affront to the universal conscience and proves once again that those responsible are motivated solely by hatred and are bent on ethnic cleansing. These crimes against humanity must be stopped.

Algeria calls on the international community to implement immediately all the Security Council resolutions aimed at ending the genocide of the Bosnian people being perpetrated by the Serbs and all who back them.

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THE SITUATION IN BOSNIA AND
HERZEGOVINA

SECURITY COUNCIL
Forty-ninth year

Letter dated 9 February 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Azerbaijan to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the statement issued by the press centre of the Ministry of Foreign Affairs of the Azerbaijani Republic concerning the bloodshed which took place in Sarajevo on 5 February 1994 (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the General Assembly, under agenda item 42, and of the Security Council.

(Signed) Yashar T. ALIYEV
Chargé d'affaires

ANNEX

Statement issued on 6 February 1994 by the press centre of the Ministry of Foreign Affairs of the Azerbaijani Republic

On 5 February 1994, the world learnt about another terrible crime in Sarajevo, Bosnia and Herzegovina. The shelling of the central market in Sarajevo killed 62 people and wounded more than 200 people belonging to the Muslim population of Bosnia and Herzegovina.

One more act of bloodshed has been added to the long list of countless sufferings heaped on the people of the former Yugoslavia by an absurd war which is already two years old. This crime has been committed at a time when the United Nations and the entire world community are continuing their strenuous efforts to find a solution to the crisis in that country.

The responsibility for the barbarous act committed in Sarajevo, regardless of who actually committed it, lies with those who plunged the peoples of Yugoslavia into the abyss of fratricidal war and, because of their interest in the continuation of the carnage, are trying to extract equivocal political dividends from the situation.

The people of Azerbaijan, better than any other, understands the sufferings being endured by the people of Bosnia and Herzegovina, which, like Azerbaijan, is the victim of aggression. The Azerbaijani people condemns the brutal act committed in Sarajevo and expresses its solidarity with the just struggle of the people of Bosnia and Herzegovina.

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GENERAL ASSEMBLY
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Agenda item 31
THE SITUATION OF DEMOCRACY AND HUMAN RIGHTS IN HAITI

SECURITY COUNCIL
Forty-ninth year

Letter dated 9 February 1994 from the Permanent Representative of Haiti to the United Nations addressed to the Secretary-General

I have the honour to attach herewith the text of the statement by the President of the Republic of Haiti, His Excellency Jean-Bertrand Aristide, concerning the fate of the Haitian refugees fleeing the repression that has reigned in Haiti since the coup d'état of 30 September 1991 (see annex).

As you know the Haitians who leave the country at the risk of their lives to escape the persecution and repression of which they are victims are systematically sent back and denied the right of asylum guaranteed to them under the relevant international legal instruments.

In that connection my Government would appreciate it if the United Nations could assist the Haitian refugees in securing the international protection they deserve.

I would be grateful if you could arrange to circulate this letter and its annex as an official document of the General Assembly under agenda item 31, and of the Security Council.

(Signed) Fritz LONGCHAMP
Ambassador
Permanent Representative

ANNEX

Statement made in Washington on 8 February 1994 by the President of the Republic of Haiti

Since the brutal military coup d'état, more than 5,000 Haitian citizens have been summarily executed by members of the Army and by their civilian supporters. Recently, 12 young people were killed because they belonged to democratic organizations. Today, we received news from Florida reporting the drowning of between four and six refugees who were attempting to escape from Haiti, while 14 others were reported missing at sea. The number of victims grows week by week, since those who are defending democracy in Haiti are killed, tortured or forced to flee the repression but then encounter a floating "Berlin Wall" which forces them back to the very persecutors from whom they were trying to escape.

One of the main reasons for my election and the election of my Government was to ensure the protection of and respect for the rule of law, at both the national and the international level. After the Second World War, the nations of the world recognized that it was morally indefensible that persons fleeing their country to escape death should be sent back to those seeking to do them harm. This moral undertaking is embodied in the international covenants designed to prevent the refoulement of persons fleeing persecution to their torturers and to enable the refugees to benefit from the right of asylum. The Republic of Haiti has rejoined the world community in its action for the protection of refugees. Article 33 of the United Nations Convention and Protocol relating to the Status of Refugees, article XXVII of the Inter-American Declaration of the Fundamental Rights and Duties of Man, article 22 of the Inter-American Human Rights Convention and article 14 of the Universal Declaration of Human Rights all provide for the protection of refugees fleeing persecution and repression in their country. The citizens of Haiti who today are seeking such a refuge must enjoy the protection stipulated by international law. My Government has always respected that undertaking.

Some people have interpreted our efforts to find a solution to the refugee crisis through the immediate restoration of democracy as an abandonment of the refugees to their fate, and as a failure in our undertaking to respect and protect human rights as enunciated in international law. That is not the case. We have simply requested that Haitian citizens remain in Haiti and pursue the struggle for democracy there, convinced that, with the support of the international community, our efforts would quickly lead to the restoration of democracy. The Government has not abandoned and will not abandon its nationals fleeing the political situation stemming from the coup d'état in Haiti. We reaffirm our unswerving support for the Haitian refugees and for the international laws which provide for their protection. We reaffirm our commitment to the principle of law among nations as laid down in those human-rights conventions and hoped that sister nations will do likewise. To all Haitian citizens seeking freedom, we reaffirm our obligations to defend their rights in the context of international laws, and we support all efforts aimed at giving effect to the international agreements which guarantee their protection.

The Government of Haiti expresses its profound concern at the prohibition placed on its citizens seeking to protect their lives from the aftermath of the brutal coup d'état which has engulfed our nation. Today, I requested our ambassadors to the Organization of American States and to the United Nations to reiterate before those bodies our grave concern with regard to international protection. Today, I also requested, through the intermediary of our embassies in the American States, the assistance of sister nations in the protection of those refugees and respect for the rule of law in our hemisphere. I am prepared to invoke the six months' deferment provided for in the prohibition treaty. The legal advisers of the Government of Haiti will not abandon the Haitian refugees fleeing persecution, and will continue to honour the principles of law in this hemisphere and throughout the world.

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THE SITUATION IN BOSNIA
AND HERZEGOVINA

SECURITY COUNCIL
Forty-ninth year

Letter dated 10 February 1994 from the Permanent Representative of Lithuania to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the Declaration of the Seimas (Parliament) of the Republic of Lithuania concerning the act of terrorism committed in Sarajevo on 5 February 1994 (see annex).

I would be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 42, and of the Security Council.

(Signed) Anicetas SIMUTIS
Permanent Representative

Annex

DECLARATION OF THE SEIMAS OF THE REPUBLIC OF LITHUANIA
ADOPTED ON 8 FEBRUARY 1994

The Seimas of the Republic of Lithuania condemns the act of terrorism committed in Sarajevo on 5 February 1994, during which tens of civilian residents of the capital of Bosnia and Herzegovina were killed.

The Seimas of the Republic of Lithuania appeals to the parliaments of Serbia, Bosnia and Herzegovina, and Croatia to do everything in their power to put an end to the slaughtering of people.

The Seimas of the Republic of Lithuania declares that it supports the efforts of the United Nations, the North Atlantic Treaty Organization the Conference on Security and Cooperation in Europe and other international organizations directed at resolving the situation in Bosnia and Herzegovina.

Česlovas Juršėnas
Speaker of the Seimas

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Agenda item 52
THE SITUATION IN AFGHANISTAN AND ITS IMPLICATIONS FOR INTERNATIONAL PEACE AND SECURITY

SECURITY COUNCIL
Forty-ninth year

Letter dated 7 February 1994 from the Permanent Representative of Greece to the United Nations addressed to the Secretary-General

I have the honour to transmit to you herewith the French and English versions of a communiqué of the Presidency on behalf of the European Union on the situation in Afghanistan, issued on 7 February 1994.

I should be grateful if you would have the text of this letter and its annex circulated as a document of the General Assembly, under the item entitled "The situation in Afghanistan and its implications for international peace and security", and of the Security Council.

(Signed) Antonios EXARCHOS
Permanent Representative

Annex

[Original: English and French]

Communiqué of the Presidency on behalf of the European Union on the situation in Afghanistan dated 7 February 1994

The European Union expresses its deep concern over the large-scale fighting in Afghanistan, which causes mass suffering among the civilian population and a new mass exodus of refugees and which disrupts efforts to establish a political process that would lead to a broad-based peace.

The European Union therefore fully supports the Security Council's presidential statement of 24 January 1994 (S/PRST/1994/4) calling for an immediate cessation of hostilities in Afghanistan and the beginning of a political process to create a broad-based Government acceptable to the Afghan people.

Furthermore, the European Union expresses its full support to the efforts of the United Nations Secretary-General and his Personal Representative and to the humanitarian work of the United Nations and other agencies active in Afghanistan to alleviate the suffering caused by the conflict in that country.

The European Union also commends the efforts of the Organization of the Islamic Conference and a number of concerned States in the search for a negotiated political settlement in Afghanistan.

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THE SITUATION IN BOSNIA AND HERZEGOVINA

SECURITY COUNCIL
Forty-ninth year

Letter dated 10 February 1994 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith the text of a letter dated 7 February 1994 from the Speaker of the Knesset, Professor Shevah Weiss, to the speakers of the parliaments of the permanent members of the United Nations Security Council and to the President of the Security Council.

I should be grateful if you would have the attached letter circulated as a document of the General Assembly, under the item entitled "The situation in Bosnia and Herzegovina", and of the Security Council.

(Signed) Gad YAACOBI
Permanent Representative

Annex

Letter dated 7 February 1994 from the Speaker of the Knesset to the speakers of the parliaments of the permanent members of the Security Council and to the President of the Security Council

The continuous acts of genocide that are taking place in Bosnia and Herzegovina are a mark of shame on human society. We, who belong to a people that was a victim of such massacres as the world stood by silently, cannot take part in such a cover-up. We strongly identify with the residents of Sarajevo and hope for international action that will stop this nightmare. Aware of your country's struggle for human rights, I strongly urge you to do everything possible in order to save the besieged residents of Sarajevo.

UNITED
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11 February 1994

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-eighth session
Agenda item 38
ELIMINATION OF APARTHEID AND
ESTABLISHMENT OF A UNITED,
DEMOCRATIC AND NON-RACIAL
SOUTH AFRICA

SECURITY COUNCIL
Forty-ninth year

Letter dated 11 February 1994 from the Permanent Representative of South Africa to the United Nations addressed to the Secretary-General

I have the honour to enclose a copy of a letter dated 3 February 1994 addressed to you by the Minister for Foreign Affairs, Mr. R. F. Botha, regarding the registration of the African National Congress (ANC) and the Pan Africanist Congress (PAC) as political parties in South Africa.

I should be grateful if the text of the enclosed letter could be circulated as a document of the General Assembly, under agenda item 38, and of the Security Council.

(Signed) V. R. W. STEWARD
Permanent Representative

Annex

Letter dated 3 February 1994 from the Minister for Foreign Affairs of South Africa to the Secretary-General

I have the honour to refer to General Assembly resolution 47/29 of 25 November 1992 entitled "Observer status of national liberation movements recognized by the Organization of African Unity and/or by the League of Arab States" as well as to General Assembly resolution 48/159 B, entitled "Elimination of apartheid and establishment of a united, democratic and non-racial South Africa: programme of work of the Special Committee against apartheid".

Paragraph 7 of resolution 48/159 B reads as follows:

"7. Also decides to continue to authorize adequate financial provision in the regular budget of the United Nations to enable the African National Congress of South Africa and the Pan Africanist Congress of Azania to maintain offices in New York so that they may participate effectively in the deliberations of the Special Committee against Apartheid and in deliberations relating to the situation in South Africa in other relevant United Nations bodies, on the understanding that such grants will continue until the situation of the two organizations as political parties has been regularized."

The Transitional Executive Council decided on 2 February 1994 to change the date for the commencement of South Africa's general election from 27 April 1994 to 26 April 1994. Special votes will be cast on 26 April, while 27 and 28 April have been set aside as election days. In accordance with section 21 (1) of the Electoral Act 1993, President F. W. de Klerk proclaimed the election dates on 2 February 1994.

In accordance with section 21 (2) of the Electoral Act, the election shall be deemed to have commenced on the date of the proclamation of the election by the State President, while section 19 (1) provides that all parties intending to contest the election should register as such not alter than 10 days after the proclamation thereof. Consequently, the African National Congress of South Africa and the Pan Africanist Congress of Azania will register as official political parties on or before 12 February 1994. The African National Congress already launched its official election campaign on Saturday, 29 January 1994.

Since the requirements of paragraph 7 of resolution 48/159 B have been met, I assume that, in order to demonstrate the impartiality of the United Nations, it will be implemented with immediate effect.

(Signed) R. F. BOTHA

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12 February 1994

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GENERAL ASSEMBLY
Forty-eighth session
Agenda item 42
THE SITUATION IN BOSNIA
AND HERZEGOVINA

SECURITY COUNCIL
Forty-ninth year

Letter dated 11 February 1994 from the Chargé d'affaires a.i.
of the Permanent Mission of Yugoslavia to the United Nations
addressed to the Secretary-General

I have the honour to transmit herewith the text of a letter from His Excellency Mr. Zoran Lilić, President of the Federal Republic of Yugoslavia, addressed to you (see annex).

I should be grateful if you would have the present letter and its annex circulated as an official document of the forty-eighth session of the General Assembly, under agenda item 42, and of the Security Council.

(Signed) Dragomir DJOKIĆ
Ambassador
Chargé d'affaires a.i.

ANNEX

Letter dated 11 February 1994 from the President of the Federal Republic of Yugoslavia addressed to the Secretary-General

At this critical juncture of the process of resolution of the crisis in the former Yugoslav Republic of Bosnia and Herzegovina, I am prompted to draw your attention to the positions of my country on the most topical issues of this process.

We support the agreement on the solution of the civil war in former Bosnia and Herzegovina proposed by the European Union, within the framework of the Geneva negotiations, in the reaching of which the two Co-Chairmen of the Conference on Yugoslavia were also engaged. We consider it very important that the Serb and Croatian sides accepted this agreement. Now, it is indispensable that the agreement also be accepted by the leadership of the Bosnian Moslems, all the more so since it incorporates its original requests.

We also support the agreements on cease-fire and demilitarization of Sarajevo recently concluded by the Serb and Moslem sides, with the significant engagement and valuable contribution of UNPROFOR on the ground, i.e. of your personal envoy Mr. Akashi and General Rose. We trust that the basis has thus been created also for placing Sarajevo under the United Nations administrative control, being an important element in the global settlement of the crisis in former Bosnia and Herzegovina. We also believe that these agreements reached on the ground can encourage a speedier agreement concerning the crisis itself.

These agreements are all the more important because they were reached in the very grave atmosphere caused by, so far, the greatest tragedy of civilians at one of the Sarajevo markets, which seriously threatens to draw the conflicting parties even further apart, to divert the attention of the international public and to shift the efforts aimed at resolving the crisis from negotiations to even fiercer armed conflicts.

We are, therefore, even more concerned at the incongruous and inappropriate decision of the NATO Council to seek a solution by means of ultimatum and military force. It must be clear that such decisions urge continuation of war and that peace can be reached only by negotiations on a footing of equality. Such NATO decision constitutes an unauthorized usurpation of the political competencies of the United Nations Security Council by the most powerful military organization in the world. Like many other United Nations Member States, the Federal Republic of Yugoslavia is firm in its belief that only the United Nations is mandated to adopt such political decisions, particularly those related to the use of force in the resolution of any situation on the ground.

Particular concern is aroused by the fact that the NATO Council adopted such decision under the strong influence of uncorroborated assumptions that the Serb side is to blame for the tragedy at the Sarajevo market. United Nations representatives in Sarajevo were explicit in their official statements that it was not possible to establish which side was to blame for the tragedy. The

statements of the competent foreign and Yugoslav experts indicate that the Serb side did not and could not commit this criminal and tragic act.

As you are aware, the Government of the Federal Republic of Yugoslavia most strongly condemned the recent abhorrent crime and the killing and wounding of a large number of civilians in Sarajevo, considering it a blow to the peace process and an attempt at peace, and has demanded an impartial investigation headed by United Nations representatives, with the participation of representatives of all sides involved in the Bosnian conflict. We believe that the world public has the right to know the whole truth about who caused so many human losses and why, and we expect that you personally will support such an investigation.

We consider that no decision, and particularly decisions on ultimatum in international relations, can be based on the alleged guilt, since any such decision would be a crime in itself. The international community and the world Organization in particular must not allow the recurrence of such a precedent. It is particularly unacceptable and perilous that any military organization, on the basis of its own assessment, takes over the political competencies which, according to the Charter of the United Nations, are vested in the organs of the world Organization.

In view of the above, I call on you, Mr. Secretary-General, to take all necessary measures in order that the United Nations Security Council regains all its usurped political rights in the resolution of the crisis in former Bosnia and Herzegovina. This would ensure a speedier and more successful negotiated peace process.

I would appreciate it, Excellency, if you informed the members of the Security Council of the contents of this letter.

Zoran LILIĆ

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14 February 1994
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GENERAL ASSEMBLY
Forty-eighth session
Agenda item 167
BUILDING A PEACEFUL AND BETTER
WORLD THROUGH SPORT

SECURITY COUNCIL
Forty-ninth year

Letter dated 14 February 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Azerbaijan to the United Nations addressed to the Secretary-General

I have the honour to transmit a statement, received by fax, made by the Press Service of the Ministry of Defence of the Azerbaijani Republic in connection with the appeal by the International Olympic Committee (IOC) to the States and parties engaged in armed conflict to declare a truce for the duration of the 1994 Winter Olympics being held in Lillehammer (Norway) from 12 to 25 February.

I should also like to draw to your attention the fact that in response to Azerbaijan's readiness to cease fire on the day of the opening of the Olympic Games, the armed forces of the Republic of Armenia launched a large-scale attack along the entire breadth of the front. The Armenian troops, introducing new, fresh forces from Armenian territory into the Kelbajar district of Azerbaijan, are attempting to break through to the main body of the Armenian occupation force. Fierce, bloody engagements are continuing in this direction.

Continuous positional engagements are also taking place in the Fizuli district of Azerbaijan.

I should be grateful if you would have this letter and its attachment circulated as a document of the General Assembly at its forty-eighth session, under agenda item 167, and of the Security Council.

(Signed) Yashar T. ALIYEV
Chargé d'affaires a.i.

ANNEX

Statement by the Press Service of the Ministry of Defence of Azerbaijan dated 11 February 1994

In connection with the appeal by the International Olympic Committee (IOC) to States and parties engaged in armed conflicts to declare a truce for the duration of the 1994 Winter Olympics being held in Lillehammer (Norway) from 12 to 25 February, the Press Service of the Ministry of Defence of Azerbaijan is authorized by the Command of the Armed Forces of Azerbaijan to state the following.

The Azerbaijani Republic, as a member of the international community and of IOC, acknowledges and respects the long-standing principle of halting wars for the period of the Olympic Games. On the assumption that this step may have a positive impact on the reduction of tension and the future settlement of the conflict, Azerbaijan's armed forces are prepared to support the act of goodwill proposed by IOC and to cease fire forever across the whole breadth of the front, if the armed forces of Armenia withdraw their occupying forces from the Azerbaijani territory captured by them.

This reservation, the Command of the Armed Forces of Azerbaijan explains, is necessary because in the past the Armenian side has more than once taken advantage of a cease-fire to deliver an attack and capture Azerbaijani territory, and there is no guarantee that the same thing will not happen this time.

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SECURITY COUNCIL
Forty-ninth year

ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK

Letter dated 16 February 1994 from the Permanent Representative of Slovenia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of opinions Nos. 8, 9 and 10 dated 4 July 1992 rendered by the Arbitration Commission of the International Conference on the Former Yugoslavia concerning the dissolution and extinction of the Socialist Federal Republic of Yugoslavia.

I should be grateful if you would have the text of this letter and its annex distributed as a document of the General Assembly, under item 8 of the agenda of the forty-eighth session, and of the Security Council.

(Signed) Danilo TÜRK
Ambassador
Permanent Representative

Annex

ARBITRATION COMMISSION

Opinion No. 8

On 18 May 1992, the Chairman of the Arbitration Commission received a letter from Lord Carrington, Chairman of the Conference on Yugoslavia, putting three questions to the Commission, the text of which is reproduced in the interlocutory decision rendered today by the Arbitration Commission.

In the opinion of the Commission, the answers to questions Nos. 1 and 3 depend on the answer given to question No. 2. The Commission will therefore start by giving its opinion on question No. 2. Questions Nos. 1 and 3 will be dealt with in opinions Nos. 10 and 9 respectively.

Question No. 2 is as follows:

Question No. 2

"In its opinion No. 1 of 29 November 1991, the Arbitration Commission was of the opinion 'that the Socialist Federal Republic of Yugoslavia [was] in the process of dissolution'. Can this dissolution now be regarded as complete?"

The Commission has taken note of the memoranda, observations and documents transmitted by the Republics of Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia.

In an interlocutory decision today, the Commission found that this matter was within its competence.

1. In its opinion No. 1 of 29 November 1991, the Arbitration Commission found that:

- A State's existence or non-existence had to be established on the basis of universally acknowledged principles of international law concerning the constituent elements of a State;

- The Socialist Federal Republic of Yugoslavia was at that time still an international legal entity but the desire for independence had been expressed through referendums in the Republics of Slovenia, Croatia and Macedonia, and through a resolution on sovereignty in Bosnia and Herzegovina;

- The composition and functioning of essential bodies of the Federation no longer satisfied the intrinsic requirements of a federal State in respect of participation and representativeness;

- Recourse to force between different parts of the Federation had demonstrated the Federation's impotence;

- The Socialist Federal Republic of Yugoslavia was in the process of dissolution but it was nevertheless up to the Republics which so wished to constitute, if appropriate, a new association with democratic institutions of their choice;

- The existence or extinction of a State was, in any case, a question of fact.

2. The dissolution of a State means that it no longer has legal personality, and this has major repercussions in international law. It therefore calls for the greatest prudence.

The Commission finds that the existence of a federal State, made up of a number of distinct federal entities, is seriously compromised when a majority of these entities, embracing a greater part of the territory and population of the Federation, constitute themselves as sovereign States, with the result that federal authority may no longer be effectively exercised in that territory.

By the same token, while recognition of a State by other States has only declarative value, such recognition, together with membership in international organizations, bears witness to these States' conviction that the political entity so recognized is a reality and confers upon it certain rights and obligations under international law.

3. The Arbitration Commission notes that, since issuing opinion No. 1:

- The referendum proposed in its opinion No. 4 was held in Bosnia and Herzegovina on 29 February and 1 March 1992, and a large majority of the population voted in favour of that Republic's independence;

- Serbia and Montenegro, as republics with equal standing in law, have constituted a new State with the name "Federal Republic of Yugoslavia", and on 27 April 1992 adopted a new Constitution;

- Most of the new States formed from the former Yugoslav republics have recognized each other's independence, thereby demonstrating that all the authority of the federal State had ended in the territories of the newly constituted States;

- The common federal bodies in which all the Yugoslav republics were represented no longer exist, and no body of that type has since functioned;

- The former national territory and population of the Socialist Federal Republic of Yugoslavia are now entirely under the sovereign authority of the new States;

- Bosnia and Herzegovina, Croatia and Slovenia have been recognized by all the States members of the European Community and by numerous other States, and were admitted to membership in the United Nations on 22 May 1992;

- United Nations Security Council resolutions 752 (1992) and 757 (1992) contain a number of references to "the former Socialist Federal Republic of Yugoslavia";

- Moreover, resolution 757 (1992) notes that "the claim by the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations has not been generally accepted";

- The declaration issued in Lisbon on 27 June 1992 by the European Council of Ministers makes express reference to "the former Yugoslavia".

4. The Arbitration Commission is therefore of the opinion:

- That the process of dissolution of the Socialist Federal Republic of Yugoslavia referred to in opinion No. 1 of 29 November 1991 is now complete and the Socialist Federal Republic of Yugoslavia no longer exists.

Paris, 4 July 1992

Opinion No. 9

On 18 May 1992, the Chairman of the Arbitration Commission received a letter from Lord Carrington, Chairman of the Conference on Yugoslavia, asking for the Commission's opinion on the following question:

> "If this is the case (i.e., that the dissolution of the Socialist Federal Republic of Yugoslavia is now complete), on what basis and by what means should the problems of the succession of States arising between the different States emerging from the Socialist Federal Republic of Yugoslavia be settled?"

The Commission has taken note of the memoranda, observations and documents transmitted by the Republics of Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia.

In an interlocutory decision today, the Commission found that this matter was within its competence.

1. As the Arbitration Commission found in opinion No. 8, the answer to this question very much depends on the answer to question No. 2 raised by the Chairman of the Conference.

In its opinion No. 8, the Arbitration Commission concluded that the process of dissolution of the Socialist Federal Republic of Yugoslavia was complete and that that State no longer existed.

New States have been created in the territory of the former Socialist Federal Republic of Yugoslavia and have replaced it. All are successor States to the former Socialist Federal Republic of Yugoslavia.

2. As the Arbitration Commission pointed out in its opinion No. 1, the succession of States is governed by the principles of international law embodied in the Vienna Conventions of 23 August 1978 and 8 April 1983, which all the republics have agreed should be the foundation for their discussions on the succession of States at the Conference on Yugoslavia.

The chief concern is that the solution adopted should lead to an equitable outcome, with the States concerned agreeing to the procedures, subject to respect for the guiding norms of general international law and, particularly, the fundamental rights of the individual and the rights of peoples and minorities.

3. In the declaration on the former Yugoslavia issued in Lisbon on 27 June 1992, the European Council of Ministers stated: "The European Economic Community and its member States will not recognize the new federal entity comprising Serbia and Montenegro as the successor State of the former Yugoslavia until the moment a decision has been taken by the qualified international institutions. They decided to demand the suspension of the Yugoslav delegation in the proceedings at the CSCE and other international forums and organizations". The European Council thereby demonstrated its conviction that the Federal Republic of Yugoslavia (Serbia and Montenegro) had no right to

consider itself the sole successor to the Socialist Federal Republic of Yugoslavia.

4. The Arbitration Commission is therefore of the opinion that:

- The successor States to the Socialist Federal Republic of Yugoslavia must together settle all aspects of the succession by agreement;

- In the resulting negotiations, the successor States must try to achieve an equitable solution by drawing on the principles embodied in the 1978 and 1983 Vienna Conventions and the relevant rules of customary international law;

- Furthermore, full account must be taken of the principle of equality of rights and duties between States under international law;

- The membership of the Socialist Federal Republic of Yugoslavia in international organizations must be terminated in accordance with their respective statutes, and none of the successor States may thereupon claim for itself alone the membership rights previously enjoyed by the Socialist Federal Republic of Yugoslavia;

- Property of the Socialist Federal Republic of Yugoslavia situated in third countries must be divided equally between the successor States;

- The assets and debts of the Socialist Federal Republic of Yugoslavia must likewise be shared equitably among the successor States;

- The States concerned must settle any disputes relating to their succession to the Socialist Federal Republic of Yugoslavia that could not be settled by agreement exclusively by peaceful means, in accordance with the principle laid down in the Charter of the United Nations;

- Specifically, they must seek a solution to such disputes by enquiry, mediation, conciliation, arbitration or judicial settlement;

- Since, however, no specific question has been put to it, the Commission cannot at this stage venture an opinion on the difficulties that might arise from the very real problems associated with the succession to the former Yugoslavia.

Paris, 4 July 1992

Opinion No. 10

On 18 May 1992, the Chairman of the Arbitration Commission received a letter from Lord Carrington, Chairman of the Conference for Peace in Yugoslavia, asking for the Commission's opinion on the following question:

> "In terms of international law, is the Federal Republic of Yugoslavia a new State, and thus subject to recognition by the States members of the European Community in accordance with the Declaration on Yugoslavia and the guidelines on the recognition of new States in Eastern Europe and in the Soviet Union issued by the Council of Ministers of the European Community on 16 December 1991?"

The Commission has taken note of the memoranda, observations and documents transmitted by the Republics of Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia.

In an interlocutory decision today, the Commission found that this matter was within its competence.

1. As the Arbitration Commission found in opinion No. 8, the answer to this question depends on the answer given to question No. 2 raised by the Chairman of the Conference.

In its opinion No. 8, the Commission concluded that the process of dissolution of the Socialist Federal Republic of Yugoslavia was complete and that none of the resulting entities could claim to be the sole successor to that State.

2. On 27 April 1992, Montenegro and Serbia decided to establish a new entity with the name "Federal Republic of Yugoslavia" and adopted its Constitution.

The Arbitration Commission feels that, within the frontiers constituted by the administrative boundaries of Montenegro and Serbia within the Socialist Federal Republic of Yugoslavia, this new entity meets the criteria of public international law for a State, which were listed in opinion No. 1 of 29 November 1991. However, as the United Nations Security Council pointed out in its resolution 757 (1992) "the claim by the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations has not been generally accepted". As the Arbitration Commission points out in its opinion No. 9, the Federal Republic of Yugoslavia is a new State which could not be the sole successor to the Socialist Federal Republic of Yugoslavia.

3. This means that the Federal Republic of Yugoslavia (Serbia and Montenegro) does not ipso facto enjoy the recognition that was enjoyed, under completely different circumstances, by the Socialist Federal Republic of Yugoslavia. It therefore rests with other States, where appropriate, to recognize the new State.

4. As, however, the Arbitration Commission pointed out in its opinion No. 1, while recognition is not a prerequisite for the foundation of a State and has

only declarative value, it is none the less a discretionary act which other States may perform when they choose and in a manner of their own choosing, subject only to respect for the guiding norms of general international law, particularly those which prohibit the use of force in relations with other States or those which guarantee the rights of ethnic, religious or linguistic minorities.

Furthermore, the Community and its member States, in their Declaration on Yugoslavia of 16 December 1991 and in the guidelines, adopted by them on the same date, on the recognition of new States in Eastern Europe and in the Soviet Union, set out the conditions for recognition of the Yugoslav republics.

5. Consequently, the Arbitration Commission is of the opinion that:

- The Federal Republic of Yugoslavia (Serbia and Montenegro) is a new State which cannot be considered the sole successor to the Socialist Federal Republic of Yugoslavia;

- Recognition of that State by the States members of the European Community would be subject to its compliance with the conditions laid down for such an act by general international law and by the Declaration and guidelines of 16 December 1991.

Paris, 4 July 1992

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Forty-eighth session
Agenda item 114 (c)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 22 February 1994 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to transmit to you the reply of the Government of Iraq to the interim report entitled "Situation of human rights in Iraq", prepared by the Special Rapporteur of the Commission on Human Rights, Mr. van der Stoel, and submitted to the General Assembly at its forty-eighth session as document A/48/600 (see annex).

I should be grateful if you would have the text of the present letter and its annex, the reply of the Government of Iraq,* circulated as a document of the forty-eighth session of the General Assembly under agenda item 114 (c).

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

* See also A/C.3/47/2 of 7 October 1992 and S/24388 of 6 August 1992.

ANNEX

Reply of the Government of Iraq to the interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq

I. INTRODUCTION

1. The relevant Iraqi authorities have considered the interim report submitted by the Special Rapporteur on the situation of human rights in Iraq to the General Assembly at its forty-eighth session (A/48/600). They have found it, as they found his previous reports, to be full of fallacies and unsupported allegations and to constitute a repetition of previous charges that lack all credibility.

2. On detailed examination of the report, any observant reader may note the following:

(a) The fact that the Special Rapporteur focuses on what he calls "the situation in the southern marsh area" and devotes to it some 15 pages of his 30-page report provides cogent proof that he continues to be a major participant in the unjust campaigns of which Iraq is from time to time the object. He is performing the political role assigned to him of fabricating crises and allegations in order to prepare the climate for foreign intervention in Iraq's affairs. He focuses on the marsh area for no other reason than to promote an attempt to impose there a situation similar to that obtaining in northern Iraq, so as to advance the schemes aimed at the partition of the country.

(b) Similarly, at a time such as this, the Special Rapporteur focuses on the allegation that the Government of Iraq is responsible for the tragic health and nutritional condition of Iraqi citizens and gives an illogical and superficial interpretation of such responsibility in a shameless attempt to distract attention from the increasing understanding among countries of Iraq's position, which is to call upon the Security Council to meet its obligations to Iraq by lifting the embargo, given that Iraq has discharged its obligations under Security Council resolution 687 (1991). In proceeding in this manner, Mr. van der Stoel once again shows himself to be adopting the political position required of him, apparently in order to prevent any serious attempt by the international community to bring pressure to bear for the lifting of the economic embargo.

(c) The fact that the Special Rapporteur, for the framing of such serious allegations and in obtaining the information that he relays, has relied on unknown sources that he is content to refer to as "persons of interest" and "a wide range of persons" in a number of capitals such as Tehran, London and The Hague, makes such information seriously suspect. These sources must surely be none other than the parties that are known for their hostility to Iraq and those elements that call themselves "the Iraqi opposition" and which, in giving currency to such false information, have the goal of harming Iraq and achieving purely political objectives that bear no proximate or remote relation to human rights.

(d) Mr. van der Stoel's dismissal of the positions taken by Iraq and of its explanations and his attempts to refute them in such a provocative manner, as well as his tendency to accept blindly all of the accusations he obtains from his "sources", confirm in a manner that leaves no room for doubt the statements made by Iraq on a number of occasions to the effect that van der Stoel is not impartial or objective but is biased and is exceeding the mandate entrusted to him as laid down in the relevant resolutions of the Commission on Human Rights.

(e) Given the "humanitarian mandate" entrusted to him, the Special Rapporteur would be better advised to cooperate with the Iraqi Government in the promotion and protection of human rights in Iraq rather than to resort to incitement and denunciation.

(f) The Special Rapporteur frequently resorts to the use of such terms as "civilian settlements" and "indigenous population", terms that have only ever been used in the history of Iraq, whether in the political or economic fields, as part of the colonialist political lexicon. The purpose of using them now is to create spurious and delusive concepts with a view to their future consequences for the unity of Iraq and of its people. Their use by the Special Rapporteur is intentional and offensive, and it ultimately has the same goal. In calling attention to the underlying meaning of these terms, Iraq requests other countries not to adopt them or to view them as objective concepts since they are subjective and politically tendentious.

3. The reports of special rapporteurs cannot in general be regarded as embodying definitively established facts so much as they are documents containing information that requires scrutiny and confirmation. Their sources are not official documents that are internationally endorsed, and we therefore believe that they always require sustained examination and scrutiny.

II. THE SITUATION IN THE MARSHES

A. Violations of civil rights

4. In paragraph 13 of his report, the Special Rapporteur states that he has received allegations of "serious and widespread violations of almost all civil rights".

5. This allegation lacks precision and credibility, as do many of the allegations made against Iraq. The Government of Iraq has responded to such allegations in previous notes, and it has stated that the Iraqi government authorities concerned are carrying out their duty to apply the proper laws and procedures in the pursuit of outlaws, deserters from military service and infiltrators into Iraqi territory from Iran. These are committing all manner of crimes, organized and otherwise, such as burglary, murder and sabotage, and this is prejudicial to the Iraqi people and to its security and safety. The performance by the Iraqi authorities concerned of their functions in the maintenance of the security and stability of the area is of the essence of the powers and duties entrusted to them and it cannot in any way be regarded as being in violation of civil rights, as the Special Rapporteur alleges.

Bombardment of "civilian settlements" and arbitrary killings

6. The Special Rapporteur claims that he has been in "regular receipt of allegations through second and third parties concerning bombardments in the region", and that he has received "numerous and consistent testimonies from refugees who arrived in south-western Iran in July and August 1993", claiming that they had been "subjected to indiscriminate bombardments" (para. 16), and that he has received allegations relating to the "bombardment of civilian settlements", the "death of large numbers of innocent persons, including women, children and the elderly" and "continuing ... assaults by means of ground-to-ground artillery" (para. 14).

7. We should like to state that the Government of Iraq is astonished by the fact that the Special Rapporteur should receive reports containing allegations of bombardments in the marsh area from "second or third parties" and that he should claim to have obtained video tapes and photographs "submitted by non-governmental groups" of the destruction of various villages in recent months. This confirms that for much of the material contained in his reports, the Special Rapporteur has relied on allegations given currency and provided to him by parties hostile to Iraq, whether States or individuals, without giving himself the trouble of verifying the information and reports in question or investigating whether the video tapes and photographs had been fabricated by political groups and parties hostile to Iraq and linked with foreign Powers seeking to cause confusion and to injure Iraq's reputation. The Government of Iraq has stated in the past, and it states once more, that it is most anxious to ensure all the prerequisites of security and protection to all of its citizens in accordance with its internal laws and its international obligations and to do so in such a way as to safeguard civil, political, economic, social and cultural rights in all parts of Iraq. The legal measures taken by the Iraqi authorities concerned pertain to the responsibility of the Iraqi State, one of whose fundamental national duties is to maintain security and stability in the country.

8. In another respect, no one who follows the situation can fail to know that there are neighbouring States (Iran) that have constantly intervened in Iraq's internal affairs, particularly in such border zones as the marsh area, and that it is they that are supplying these outlaws with weapons and explosives with a view to causing problems for Iraq and undermining the situation inside the country. We refer you to the letter from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General of the United Nations contained in the annex to document A/C.3/47/2 of 7 October 1992.

9. It should be recalled that in 1991 the Government of Iraq declared a comprehensive general amnesty for deserters from military service and participants in the disturbances other than those who had committed premeditated murder or rape and that the amnesty applied to all Iraqis whether in northern, southern or central Iraq. Many of these returned to their normal lives. The remainder, however, were those who had taken to sabotage and highway robbery as a way of life, which indicates a deliberate intent to commit crimes.

10. The claim that large numbers of innocent people were killed, including women, children and the elderly, is an irresponsible and superficial

generalization and an example of random speculation. It is, in reality, the actions of these saboteurs and criminals that are disturbing the security and stability of the area, and it is their acts of robbery and murder and their destruction of homes and property that are endangering the lives of innocent people, particularly in the areas where it is difficult for the government authorities concerned to maintain a presence because of the natural features of the terrain. The State has therefore had the duty from time to time to pursue the criminal elements in order to maintain security and ensure the safety of citizens.

11. The allegation of the Special Rapporteur concerning "the use of 'chemical weapons' during attacks in the region of Um al-Ghag and the Abu Zergi marshlands near Basra at the end of September 1993" (para. 21) is based on falsehood and imprecision. The inspection team of nine experts under the leadership of Roger Hill of Australia that visited Iraq at the end of November 1993 to investigate allegations of the use by Iraq of chemical weapons issued statements that refute this allegation, and it found no evidence that chemical weapons had been used by Iraq. Moreover, the Special Rapporteur himself states in his report that no "corroborative evidence" supporting these allegations was found. This proves that the allegation he makes is a pure calumny and has no basis in fact and that its purpose is to injure the reputation of Iraq.

12. We should like to point out that the allegations reported by the Special Rapporteur in paragraph 22 of his report concerning "arbitrary killings and extrajudicial executions of persons either in the southern marsh area or taken from the area" lack credibility and contain many falsehoods. This is because the marsh area, and particularly the area that parallels the boundary with Iran, can be entered by saboteur elements which, as has been said, engage in robbery and plunder of the inhabitants of the area and endanger the lives of citizens.

13. The Decree of the Revolution Command Council of 21 December 1992 has the goal of ensuring the safety and security of citizens in all areas of Iraq through the voluntary efforts of individuals from each area who undertake to protect its security and the safety of its residents from attack by injurious or saboteur elements, particularly where police forces are inadequate, at specific times and in difficult circumstances such as those Iraq is undergoing. The Government is anxious to protect the security, lives and property of its citizens, particularly in the current exceptional situation that requires extraordinary efforts to halt crimes against the security of the country and of citizens and the theft of their property in pursuit of unlawful personal interests that take no account of the critical economic circumstances in which the country finds itself. It is, of course, the duty of these volunteers to protect citizens and not to kill them or harm them, and they perform their task within the framework of well-defined controls that are subject to judicial supervision and not free of restrictions, as depicted by the Special Rapporteur. Such measures are adopted, moreover, in many countries passing through difficult and exceptional circumstances.

Arbitrary arrest and detention, and due process of law

14. The Special Rapporteur states that "reports indicate that the people of the southern marsh area live in constant fear of arbitrary arrest and detention"

(para. 24) and that "all forces of governmental administration are responsible for arbitrary arrests and detentions" (para. 25). He further states that "military patrols are said to move in and out of the marsh areas effecting arrests of civilians when and as they feel inclined", and he claims that the basis of arrest is the accusation of being a "criminal", "deserter" or "infiltrator" and, in the case of women, a "smuggler" (para. 25).

15. Most regrettably, these statements do no more than add to the heaping up of accusations against the Iraqi Government that are false like many others. We should like to state that the Government of Iraq adheres diligently to the principles of justice, legality and respect for human rights and to their embodiment in its internal laws and statutes. Article 22 (b) of the Iraqi Constitution unequivocally prohibits the arrest, detention, imprisonment or search of any person other than in accordance with the law. Accordingly, article 92 of the Code of Criminal Procedure stipulates that no person may be arrested or detained other than by order of a magistrate or a court or in the circumstances permitted by law.

16. The principle that prohibits arbitrary arrest is also reflected in the Penal Code, and its article 322 penalizes with imprisonment for a period of not more than seven years any official or employee in public service who arrests, holds or detains any person in circumstances other than those laid down by law. Further, article 333 of the Penal Code stipulates that any official shall be punished who, in the exercise of his office, engages in the torture of a suspect or witness in order to induce him to confess to a crime or to make statements or give information. The use of force or intimidation is also regarded as tantamount to torture.

17. In confirmation of the provision in Iraqi legislation for a mechanism to guarantee the right to freedom and the absence of arbitrary arrest, the Ministry of Justice issued Instruction No. 4 of 1988, published in the Official Gazette for 11 July 1988, requiring those engaged in an inquiry to notify the investigating magistrate of any reports reaching them concerning the commission of a felony or misdemeanour. It also requires the Office of the Public Prosecutor to undertake two supervisory visits to each police station to inspect the premises and ascertain that no detainees are being held without an arrest order issued by a competent magistrate or court and that health standards are being met and to hear any complaints by persons in detention and follow up any infractions found in accordance with the law.

18. The Special Rapporteur states that the "Marsh Arabs ... have never had identification cards" (para. 26). We should like to state that this claim is lacking in truth and precision, because all citizens of Iraq, children and adults alike, are issued with identification cards.

19. An allegation is made concerning "bribes required of persons to obtain release or protection", and it is said that "bribes in many thousands of Iraqi dinars, and paid to all levels of government forces, have been reported". We should like to state that this allegation involves many falsehoods, does a great disservice to Iraq's reputation and casts doubt on the fairness of the State apparatus. The Special Rapporteur would have been better advised to have

scrutinized the information and allegations reaching him more closely before making charges against the State and its organs.

Forced displacement

20. In paragraphs 31 and 32 of his report, the Special Rapporteur states that "the effect of Government of Iraq actions in the southern marsh area is to force the relocation of the inhabitants from their traditional and ancestral marsh homeland to the urban centres in and around the marshes". Reference is also made to "the destruction of the environment", and it is said that "denying access to food and health care in the marsh area similarly forces Marsh Arabs to move". The Special Rapporteur also states that "the fundamental impetus for the flight of refugees into Iran this past summer was the drying of the marshes together with a general fear of the governmental authorities".

21. We should like to state that the real reason for the flight of refugees to Iran was that some neighbouring States and their agents in the area are endeavouring to create a climate of instability and insecurity by spreading tendentious rumours among the people that are causing some of them to leave their homes. These agents also force people to move in order to achieve political goals. This is well known, and the incidents that followed the war of aggression in the Gulf cannot be far from our minds. Moreover, the impact the aggression has had on Iraq and the adverse effects of the economic embargo imposed more than three years ago, whose consequences continue to make themselves felt to this day, have deeply affected the economic and social lives of citizens in all parts of the country and particularly those in the marsh area because of the already difficult character of life there. Despite the difficult economic circumstances in which the country finds itself, the Government of Iraq has in recent years endeavoured to improve the living conditions of the marsh Arabs by offering them the possibility of voluntary relocation to nearby population centres where health and educational services are available and the difficulties they face may be mitigated.

B. Violations of economic rights

22. In paragraph 33 of his report, the Special Rapporteur states that Iraq is obliged, according to article 2 of the International Covenant on Economic, Social and Cultural Rights, to ensure the rights to "adequate food, clothing and housing" and "the highest attainable standard of physical and mental health".

23. In this connection, we should like to state that the Government of Iraq is fully aware of its obligations. However, the sufferings of the Iraqi people, whether in northern, central or southern Iraq and whether in the east or west of the country, have been caused by the imposition and maintenance of the economic embargo following the events of August 1990. As a result, Iraq has been experiencing abnormal circumstances, such as high prices and adverse health and living conditions, whose impact has been felt in the lives of citizens in all parts of Iraq. There has also been the interference of the States that undertook the aggression against Iraq in the internal affairs of the country.

24. The Special Rapporteur states that there are obstacles that prevent those living in the marshes from benefiting from the ration-card system, such as the difficulty of obtaining or renewing a ration card because some do not have the necessary identification card (para. 34). There is absolutely no truth to this allegation, and all the inhabitants of Iraq, without distinction, obtain their rations on the basis of the ration-card system. The distribution of foodstuffs and medical supplies is carried out by agents of the Ministry of Trade who are deployed everywhere and who undertake to deliver rations to citizens so that their minimum requirements may be met in the circumstances created by the unjust economic embargo.

25. Hospitals are supplied with the few essential drugs available for free distribution to patients. For the chronically ill, medication is distributed on the basis of their health record. It should be recalled that the Iraqi authorities have in the past invited world humanitarian and parliamentarian organizations and the press to visit the area and to see for themselves that these allegations are untrue.

26. The allegation concerning the deliberate poisoning of the marshes (para. 40) is a pure fabrication for which the Special Rapporteur can find no basis. Furthermore, we do not see the connection, mentioned by the Special Rapporteur in paragraph 40 of his report, between Iraq's obligations under Security Council resolutions 687 (1991) and 688 (1991) and action to halt the discharge into the marshes of "various poisonous and dangerous chemical substances" and of raw sewage resulting from the destruction by the Coalition States during their aggression against Iraq of urban water treatment facilities, from the fact that those facilities have not yet been completely rebuilt or from the fact that planned facilities have not been built because of the well-known circumstances created by the embargo.

C. Violations of social and cultural rights

27. In this domain, the Special Rapporteur's bad faith leads him to posit that the Marsh Arabs are both a minority in the sense of article 27 of the International Covenant on Civil and Political Rights or the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and that they constitute an indigenous people entitled to the rights stipulated in article 1 of the Covenant on Economic, Social and Cultural Rights (para. 43). Here we should like to state the following:

(a) Article 27 of the International Covenant on Civil and Political Rights refers to "ethnic, religious or linguistic minorities". This description does not apply to the inhabitants of the marshes since they are Arab Muslims who are not distinct from their fellow Iraqis in any of these respects. If the Special Rapporteur is referring to the difference in religious rites, then it seems that he is unaware of the true state of affairs with respect to the cultural, confessional and religious situation in Iraq as a whole. All the rites of Islam are based on a single creed, namely Islam, and the linkage made by the Special Rapporteur therefore has no basis and lacks credibility.

(b) The Special Rapporteur's characterization of the inhabitants of the marshes as an "indigenous people" can only be explained by his ignorance of the history of Iraqi society and of its formation over the centuries in terms of nationality, religion and heritage and by his desire to create a climate conducive to the dismemberment of Iraq and the creation of a situation in the south similar to that prevailing in the north. His repeated attempts to introduce the use of this description are preposterous, and we do not know on what he bases himself in his pronouncements. It is well known that the inhabitants of the area are members of Arab tribes that have extensions throughout Iraq, in the Arabian Peninsula and in Yemen, and their origins and descent are known. Accordingly, those of the Iraqi people who are in the marshlands do not receive any discriminatory treatment, either in services or in the distribution of rations of food and medicine, and their situation is the same as that of all other members of the Iraqi people. Many foreign personalities and journalists who have visited the area have testified that this is indeed the policy, and the true situation has been reported in their countries and in their newspapers.

(c) Although the Special Rapporteur is delighted to refer to those provisions of international conventions that support his own views, he ignores all those that do not. Article 8, paragraph 4, of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities states that "Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States". Nevertheless, we can see that all of the goals the Special Rapporteur seeks to achieve have the primary aim of prejudicing Iraq's territorial integrity and violating its political independence.

28. The Special Rapporteur accuses Iraq of what he calls "extensive destruction of the marshes" through a deliberate policy of "the drying of the marshes", and he attempts to link all of the irrigation and agricultural projects aimed at developing and expanding the region with this objective (para. 47).

29. Iraq has previously stated its position with regard to these allegations and has called attention to the character of the objectives that underlie the raising of such matters. This is primarily intended to halt the development process in Iraq and to prevent the country from finding the substitutes necessary to cope with the effects of the unjust economic embargo imposed on it more than three years ago. In this connection, we refer to the letter dated 6 August 1992 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General of the United Nations (S/24388) and the letter dated 5 October 1992 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General (A/C.3/47/2).

30. For purposes of emphasis, we here briefly repeat the explanation given of the dimensions and objectives of the projects in question. The marshlands are natural lowlands located on the lower reaches of the rivers of the southern region, and the waters of the Tigris and Euphrates rivers used to flow into them in the flood seasons and thus raise water levels. Similarly, water levels would fall in low-water seasons and as a result of high rates of surface evaporation in the summer season.

31. In the ongoing development of the exploitation of water resources and of improved water utilization in the country, numerous barrages and reservoirs were built to prevent water loss and avert the danger of flooding. Water use increased greatly as a result of ongoing population growth and an increase in the number of enterprises making use of water. This was also accompanied by extensive regulation and exploitation of the waters of the Tigris and Euphrates outside the country, particularly in the Euphrates Basin where the upstream States constructed large storage dams and established many irrigation projects. This resulted in a major reduction in the quantity of water reaching the country, and inflows to the Euphrates have fallen from an average of 30 billion cubic metres a year to 9 billion. This has consequently limited the flow of water into the marshes, so that in recent years there has not been sufficient to meet agricultural and non-agricultural needs.

32. The following measures have been taken with a view to improving water use:

(a) Comprehensive planning has been under way since the 1970s for the management of water resources in such a way as to ensure optimum use by means of programmes for the construction of dams, reservoirs and major weirs and for land reclamation and the dredging of the lower reaches of the rivers in order to reduce water wastage. The diminution of the country's water resources has required the speedy implementation of the necessary measures to reduce the current waste of water by:

(i) Dredging the lower reaches of the rivers in the southern region and confining their course in order to prevent the flow of water into water meadows unutilized;

(ii) Construction of canals fed by such water meadows and use of the water for the purpose of bringing new land under cultivation by the inhabitants of the area for such strategic crops as wheat in order to secure the food that they need, particularly in the circumstances created by the unjust embargo imposed on the country;

(iii) Construction of major regulating barrages on the rivers in order to facilitate the establishment of quotas and the proper distribution of water to agricultural enterprises and so as to ensure the water levels necessary for irrigation purposes.

(b) Over the years, Iraq has experienced an evident decrease in the quantity of its water because of the reduction in amounts flowing into the country and a fall in water quality as a result of the construction of storage and irrigation projects and increased reclamation activity in the upstream States. This has had clear repercussions on the southern region in particular. The salinity of the water reaching the area has exceeded internationally and locally permitted levels several times over, and it has been at a level of 7,000 parts per million while water fit for human consumption is required at worst to have a salinity level of no more than 1,500 parts per million. The following measures therefore became necessary:

(i) To reduce the amount of water flowing into the water meadows in order to reduce the evaporation losses that contribute to the deterioration in water quality in the southern area resulting from the flow of water that is highly saline because of evaporation into the rivers in the low-water seasons;

(ii) To complete the Saddam river project, which is the main drain for the land situated between the rivers, and to link it with the Arabian Gulf in order to prevent its saline water from flowing into the water meadows and thence into the rivers of the southern region and causing a deterioration in water quality, particularly in the Basra Governorate. It should be recalled that these are old reclamation projects for which the feasibility studies were conducted by reputable foreign companies and experts. (In this connection, we refer to the document entitled "Irrigation projects in southern Iraq and the right to development" that was submitted by the Government of Iraq to the Commission on Human Rights at its fiftieth session.)

(c) The above measures have been of great benefit to the entire country, and particularly to water users in the southern region. The latter saw no improvement in water quality until after the measures had been put into effect, when water salinity returned to permissible levels. Thousands of hectares of land were also brought into use for agricultural purposes. The reduction of water wastage is a major objective that will have to be achieved sooner or later in the light of the continued diminution in the quantities of water entering the country.

III. THE SITUATION IN GENERAL

33. The Special Rapporteur holds the Government of Iraq responsible for the deteriorating health and nutritional situation in Iraq as a result of the circumstances created by the unjust economic embargo imposed on the Iraqi people more than three years ago, because of its refusal to comply with Security Council resolutions 706 (1991) and 712 (1991) (para. 67).

34. In this context, we should like to state that these resolutions are of a political character and that they have no substantive connection with the objectives for which the Special Rapporteur believes they were adopted. Everyone is aware that the two resolutions in question impose political restrictions for purposes that bear no relation to human rights and are in conflict with the principle of the sovereignty of Iraq and its people over the natural resources of the country, a principle that is firmly established in international law. We recall in this connection that article 1, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights and the corresponding article of the International Covenant on Civil and Political Rights stipulate that "All peoples may, for their own ends, freely dispose of their natural wealth and resources ...". It is strange that the Special Rapporteur should focus on holding Iraq responsible at a time when States are beginning to show increased understanding of Iraq's position, which is to urge the Security Council to meet its obligations by lifting the economic embargo in its entirety, given that Iraq has discharged its obligations under Security

Council resolution 687 (1990). Here Mr. van der Stoel again reveals himself as embracing the political position required of him in order to prevent any serious attempt by the international community to bring pressure to bear for the lifting of the economic embargo.

35. The Special Rapporteur's allegation that the Government of Iraq is pursuing a policy of discrimination between one region of Iraq and another in the distribution of rations of foodstuffs and medicines (para. 68) is a mere fabrication that has no basis in fact. The enormous effort being made by the Iraqi authorities to distribute to all members of the Iraqi people without distinction the few resources that are available because of the unjust embargo is sufficient to refute such accusations. Many international non-governmental organizations have commended this system and its success and fairness.

36. The Special Rapporteur accuses the Government of Iraq of having reduced the international humanitarian assistance available throughout the country and particularly in the south (para. 67). In this connection, we emphasize that the United Nations Inter-Agency Humanitarian Programme in Iraq (UNIAHPI) has thus far been unable to demonstrate that it is succeeding in providing the necessary assistance to the Iraqi people. The figures provided by UNIAHPI to the Government of Iraq indicate that the Programme lacks balance and fairness in implementing priorities because of the pressures exercised by donor States for the allocation of the assistance that they provide to it. Moreover, in paragraph 67 of his report, the Special Rapporteur admits that the Programme is underfunded by almost $360 million. How can the Special Rapporteur regard the Programme as vital for the provision of humanitarian assistance to the Iraqi people when it is so greatly underfunded? Nevertheless, the Government of Iraq has, for its part, taken the initiative of renewing the residence visas of all the officials of the Programme on a regular basis since the expiration of the Memorandum of Understanding on 31 March 1993. The situation is the same with regard to entry visas, and Iraq has granted hundreds of such visas to UNIAHPI officials.

IV. THE SITUATION IN THE NORTHERN KURDISH TERRITORY

37. The Government of Iraq has already stated on more than one occasion that the Kurdish area in northern Iraq is under the control of Coalition forces and Kurdish militias. This is to be regarded as a violation of Iraq's sovereignty over its territory and as open interference in its internal affairs. The central Government has no de facto administrative or military presence in the region.

38. The Special Rapporteur repeats his allegation that the Iraqi Government is maintaining an internal economic blockade against the northern region. This allegation is untrue, and it deliberately ignores the facts. The Government continues to send food rations to the northern governorates as to the other governorates of Iraq but, at the same time, it is unable to ensure that the rations will reach the beneficiaries for the reasons given above. It is the militias that control the region that receive and dispose of the rations, and they either sell them to the inhabitants at exorbitant prices or smuggle them into the neighbouring countries.

39. In paragraph 70 of the report, it is stated that "the collapse of certain basic infrastructure owing to non-repair or interference, or the coming of a harsh winter, would result in considerable suffering" and that this is "a potential which the Special Rapporteur believes the Government is under an obligation to confront".

40. It appears from this paragraph that the Special Rapporteur does not grasp the true state of affairs in the area. The intervention or repair for which he calls is not possible for the reasons given above. Moreover, the elements that control the region with the support of the Coalition forces have, in a spirit of irresponsibility, dismantled a large number of vital service installations and utilities and high-tension electricity pylons and have severed electricity cables and sold them in neighbouring countries for their own narrow purposes. This has caused disruption in the electricity supply to many areas.

41. In bringing accusations without ascertaining their truth or credibility, the Special Rapporteur is giving expression to his own prejudices against the Government of Iraq. His statements that the Government of Iraq has the object of imposing collective punishment against the inhabitants of the northern region and that it has withdrawn basic social services, including pensions (para. 71), contain much fabrication, exaggeration and distortion of the facts. The Government has for long stressed the fact that, regardless of the circumstances, the Kurdish people is part of the Iraqi people. When it learns of such accusations, it becomes more than ever convinced that Mr. van der Stoel is involved in the political campaign to promote attempts at the geographical dismemberment of Iraq. In connection with the alleged withdrawal of social services such as pension payments, we should like to state that the Government Iraq has established two centres for the disbursement of pensions in the northern governorates.

42. The fabrications that the Special Rapporteur continues to repeat to the effect that the Iraqi authorities have launched armed attacks against the northern region (para. 74) fall within the scope of his previous attempts to injure Iraq's reputation. The Government of Iraq has launched no armed attacks against the region. We should like to state in this connection that there are many tribes inhabiting the area and there are frequent disputes among them involving land, water, pasture or vendettas. There are sometimes outbreaks of fighting among them, which are generally resolved in the tribal framework. It should also be recalled that these areas are not under the control of the central authority of the State and that this prevents the intervention of the central authority in order to mediate in the resolution of such tribal conflicts. There are also disputes between the warring Kurdish militias fostered by certain foreign States, and these often develop into fierce battles between their members such as those that took place at the end of December 1993 at Irbil, Sulaymaniyah and Dohuk, when hundreds of innocent members of our Kurdish people were killed.

43. The Government of Iraq strongly denies that it has any responsibility for the "incidents of a security nature" that have taken place in the region and which the Special Rapporteur mentions in paragraph 75 of his report. He ignores the fact that there are numerous parties and countries that are endeavouring to

disparage Iraq and injure its reputation and that do not hesitate to commit criminal acts and then ascribe them to the Iraqi Government.

44. The intervention of the Special Rapporteur in assessing the attitude of the Government of Iraq towards the United Nations Inter-Agency Humanitarian Programme in Iraq (para. 77) is in contravention of the working rules that govern the relationship between the Government of Iraq and the Programme. The Special Rapporteur is not authorized by his mandate to give such an assessment, and this clearly shows that his objective is to distort the true state of affairs and to make charges against Iraq without any legal justification.

45. In order to clarify the attitude of the Government of Iraq towards the Programme in a general manner, we should like to point out that since the inauguration of the Programme on 18 April 1991 Iraq has made available all of the necessary administrative facilities for the implementation of United Nations activities. It has done so in a desire to cooperate closely with the United Nations in order to meet the increasing needs of the civilian population, there having been acute shortages since the imposition of the unjust embargo on Iraq on 6 August 1990. Despite the non-renewal of the Memorandum of Understanding governing the obligations of the two parties with respect to the Programme and to United Nations projects in Iraq, Iraq has taken the initiative of renewing the residence visas of all Programme officials on a regular basis since the expiration of the last Memorandum of Understanding on 31 March 1993. The situation is the same with respect to entry visas, and Iraq has granted hundreds of such visas to Programme officials.

46. The presence of certain United Nations officials has constituted an additional burden on Iraq. Instead of directing their efforts at mitigating the sufferings of the Iraqi people resulting from the embargo, which is supposed to be the reason for their presence in Iraq, some have resorted to committing violations and offences in which they have been caught in the act, which are tantamount to economic sabotage and in respect of which they cannot therefore be regarded as protected by immunity. These offences include the smuggling of antiquities, gold jewellery, medicines, carpets and rare works of art.

47. With regard to Iraqi financial contributions in local currency, it should be said that Iraq has met part of these obligations in the hope that the Programme would fulfil its commitment to provide for the minimum humanitarian needs of the civilian population. This has not yet happened.

48. The United Nations Programme in Iraq has as yet been unable to demonstrate success in providing the necessary assistance to the Iraqi people. The figures provided by the Programme to the Government of Iraq indicate that the Programme lacks balance, fairness and competence in implementing priorities because of the pressures brought to bear by donor States for the allocation of the assistance they provide to the Programme in such a way as to achieve their political goals of promoting efforts to dismember Iraq.

V. COMMENTS ON THE RECOMMENDATIONS

49. We should like to comment on the recommendations made by the Special Rapporteur in part IV of his report in the order in which they are made there:

(a) There are no military activities in the marsh area such as those the Special Rapporteur recommends should cease. There may from time to time be regular and limited activities that are undertaken by the Iraqi authorities concerned in order to apply the proper laws and procedures for the pursuit of outlaws, deserters from military service and infiltrators into Iraqi territory from neighbouring countries, particularly in that part of the marsh area close to Iran. These commit all manner of crimes that are prejudicial to the Iraqi people and its security and safety, and this requires the competent authorities to perform their duty of maintaining security and stability in the region.

(b) The Government of Iraq rejects outright the idea of stationing human rights monitors in Iraq, since it is blatantly inconsistent with the concepts of sovereignty, independence and non-interference in domestic jurisdiction. By the stationing of such observers, it appears that the Special Rapporteur is seeking something similar to the political agents of the colonialist Powers, and he entirely overlooks the authority of the Iraqi State to exercise its powers in sovereignty and independence. The Special Rapporteur has tried to find a basis in international law for his idea by reference to Security Council resolution 688 (1991). In order to justify his idea, he has tried to devise a mechanism for the resolution similar to those for assessing the extent of Iraq's compliance with other resolutions, such as the mechanism for dealing with weapons of mass destruction. However, this idea has no basis in Security Council resolution 688 (1991) itself and, in this respect, we should like to state as follows:

(i) The Security Council alone has the authority to create mechanisms for the implementation of its resolutions, and no other United Nations organ may devise a mechanism for the implementation of a Security Council resolution. No measures may be inferred that are not embodied in the resolution itself, and if they are it is to be regarded as trespassing on the powers of the Council.

(ii) The attempt by the Special Rapporteur to find some connection between the situation of human rights in Iraq and the issue of the maintenance of peace and security in the region is an encroachment on the powers of the Security Council. Resolution 688 (1991) itself refutes any such connection, since its third preambular paragraph considers that the flows of refugees across international frontiers constitute cross-border incursions and it is they that threaten international peace and security in the region. In other words, it is the flow of refugees that threatens peace and not the human rights situation in itself. It is well known that the flow of refugees basically came to a halt a short time before the adoption of resolution 688 (1991). Therefore, the connection that the Special Rapporteur seeks to establish between the situation of human rights in Iraq and the maintenance of peace in the region did not exist at the time resolution 688 (1991) was adopted and, all the more so, does not exist now.

(iii) The second preambular paragraph of Security Council resolution 688 (1991) specifically recalls the provisions of Article 2, paragraph 7, of the Charter of the United Nations, namely the principle of non-intervention by the United Nations in internal affairs that are regarded as within the domestic jurisdiction of States. This principle was raised in the statements made by a number of representatives in the Security Council in the course of the debate on the resolution. The seventh preambular paragraph of resolution 688 (1991) reaffirms the commitment of all Member States to respect the sovereignty, territorial integrity and political independence of Iraq and of all States in the region. Accordingly, any mechanism for resolution 688 (1991) must abide by the principles of non-interference in the domestic jurisdiction of Iraq and of respect for its independence. When we revert to the Special Rapporteur's ideas for a body of human rights monitors, we find that they are in blatant violation of these two basic principles of the Charter of the United Nations. With the body of monitors, he seeks to create a mechanism for bringing about a new and innovative form of mandate and trusteeship over Iraq, for an unlimited period of time, in the exercise by the State of its domestic jurisdiction.

(iv) The mechanism for monitoring the implementation of resolution 688 (1991) was no more than the request to Iraq to permit international humanitarian organizations to enter its territory in order to provide their assistance. The Security Council also requested the Secretary-General to pursue his humanitarian efforts in Iraq. Accordingly, Iraq concluded with the United Nations representative for humanitarian assistance the Memorandum of Understanding of 11 April 1991 concerning the facilitation of the provision of humanitarian assistance, and this Memorandum of Understanding was renewed. This does not therefore justify the idea of human rights monitors proposed by the Special Rapporteur. Furthermore, Mr. van der Stoel has attempted to compare the situation in Iraq with what is happening in El Salvador and Cambodia, for example, in order to justify his idea. This has, however, no basis in reality or in law, since the observer operations in those cases were instituted following civil war conditions and as a result of special agreements signed by the parties to the conflict.

(c) With regard to the Special Rapporteur's recommendation that the Government of Iraq should cooperate in facilitating an investigation to be conducted by the United Nations Special Commission concerning the allegations of "chemical weapons" use in southern Iraq, we would like to state that Iraq, in an endeavour to uncover the truth and thwart the aims of this malicious campaign, has cooperated fully with the Special Commission. The Special Commission has completed its inquiries, and its official spokesman has stated that it found no evidence of such alleged use.

(d) With regard to the allegation of the Special Rapporteur that the Government of Iraq is engaged in actions "which may cause irreparable damage to the southern marsh environment", we should like to refer to paragraphs 28 to 32 above, where a complete picture is given of the true state of affairs there

definitively refuting allegations that are intended to halt the development process in the area and cause it to remain backward and to contain Iraq's sustained efforts to overcome the impact of the embargo imposed on it more than three years ago. The Government of Iraq is aware of its obligations to the inhabitants of the area, and the many foreign journalists and foreign personalities who have visited the marsh area have seen for themselves the close relations that obtain between the inhabitants and the Iraqi authorities.

(f) Given its concern to cooperate closely with the United Nations in meeting the growing needs of a civilian population that has been subjected to acute shortages since the imposition of the unjust embargo on the country on 6 August 1990, the Government of Iraq has provided all necessary administrative facilities for the implementation of United Nations humanitarian activities since the Programme began on 18 April 1991. Despite the fact that the Memorandum of Understanding governing the obligations of the two parties was not renewed, Iraq has taken the initiative of renewing the residence permits of all Programme officials on a regular basis since the expiry of the second Memorandum of Understanding on 31 March 1993.

(g) On more than one occasion, Iraq has stated that there is no "internal embargo" of any kind. The Iraqi authorities assiduously treat all members of the Iraqi people indiscriminately and are anxious to distribute what few food and medical rations are available because of the circumstances created by the economic embargo against them. Despite the fact that the northern region is not under their administrative and military control, they nevertheless make a serious effort to deliver rations to the northern governorates as to the other governorates. They are, however, unable to ensure the arrival of the rations in a proper manner because of the control exercised by the militias over the area, and it is these militias that take delivery of the rations and dispose of them and either sell them to residents at exorbitant prices or smuggle them into the neighbouring countries.

(h) The allegation that the Iraqi authorities are shelling the villages and communities of the northern region is a mere fabrication that has no basis in fact. It seems that the Special Rapporteur, prompted by bad faith, is seeking to make of the Government of Iraq a party to certain disputes involving land, water, pasture or vendettas between the tribes that inhabit the area. Matters sometimes deteriorate into an outbreak of fighting between them, and in such cases the authorities are unable to intervene in order to settle the disputes because they take place outside the area under their control.

(i) With regard to the Special Rapporteur's demand that the Government of Iraq should make all outstanding payments due to the United Nations Inter-Agency Humanitarian Programme in Iraq, we should like to state that Iraq has met a part of these obligations in the hope that the Programme would fulfil its corresponding obligation of providing for the minimum humanitarian needs of the civilian inhabitants. This has not yet been shown to have happened.

(j) The demand of the Special Rapporteur, at such a time, that Iraq should implement Security Council resolutions 706 (1991) and 712 (1991) regrettably gives cogent proof of the role being played by him in creating a climate conducive to the perpetuation of the economic embargo against Iraq, with all its

concomitant tragedies and woes for the entire Iraqi people, despite the fact that Iraq has discharged its obligations under resolution 687 (1990). We refer in this connection to paragraphs 33 and 34 above.

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REVIEW OF THE EFFICIENCY OF THE ADMINISTRATIVE AND FINANCIAL FUNCTIONING OF THE UNITED NATIONS

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly a letter dated 17 February 1994 from the Chairman of the Panel of External Auditors of the United Nations, the specialized agencies and the International Atomic Energy Agency and Chairman of the United Nations Board of Auditors to the President of the General Assembly, containing the views of the Panel and the Board submitted in accordance with section II, paragraph 8, of Assembly resolution 48/218 of 23 December 1993.

ANNEX

Letter dated 17 February 1994 from the Chairman of the Panel of External Auditors of the United Nations, the specialized agencies and the International Atomic Energy Agency and Chairman of the United Nations Board of Auditors to the President of the General Assembly, containing the views of the Panel and the Board submitted in accordance with Assembly resolution 48/218

In resolution 48/218 of 23 December 1993, the General Assembly requested the views of the Panel of External Auditors of the United Nations, the specialized agencies and the International Atomic Energy Agency and the United Nations Board of Auditors on how oversight functions within the United Nations could be improved, according to current reporting procedures. I am writing in response to this request in my capacity as Chairman of both the Panel of External Auditors and the Board of Auditors. The views expressed here have been the subject of extensive discussion between the members and represent, therefore, the position of both bodies. Reference to the views of the Panel, below, should be read to include the Board. A list of the members of the Panel of External Auditors and the Board of Auditors is appended to the present letter.

* * *

External oversight mechanisms

1. The Panel welcomes warmly the General Assembly's reaffirmation of the role of the Board of Auditors as an external control mechanism for oversight, monitoring and control by the General Assembly of the administrative and financial functioning of the United Nations. In our view, a strong and independent external audit function should be at the core of the accountability arrangements of the United Nations.

2. In expressing our views on how the oversight functions of the United Nations might be improved, we wish to stress that the role and function of the Board should continue much as now. Our comments, therefore, focus on the role and function of the United Nations arrangements for internal audit, monitoring and evaluation, and on the proposals put forward by the United States for an Inspector General for the United Nations.

3. However, the Panel and the Board are not complacent about the current arrangements for external audit and believe there is scope in a number of areas for making further improvements. At its last meeting in November 1993, the Panel expressed its intention to play an active role in the General Assembly's consideration of the arrangements for the external oversight of the United Nations, as decided in Assembly decision 47/454 of 23 December 1992. The Panel will put forward its views on possible improvements to the external audit arrangements in a further document in time for consideration by the General Assembly at its next session. Among other issues, it intends to comment on the scope of the functions of the Board of Auditors; the resources available for

external audit; the use of the reports of the Board of Auditors as a vehicle for holding the Organization accountable to Member States; and the arrangements for implementing audit recommendations. In addition, the Board of Auditors will provide its views, separately, on the proposed changes to the term of appointment of members of the Board as requested by the General Assembly in resolution 48/216 D of 23 December 1993.

Internal oversight mechanisms

Roles of external and internal audit

4. The Panel believes strongly that external and internal audit should be kept separate because they fulfil different roles. It is important that there be no muddle or confusion between them. Internal audit is a systematic, independent review of all an organization's operations for the purposes of advising management on the efficiency and economy of internal control and management practices and controls. By this definition, internal audit resources are necessarily subordinate to the head of the organization within which they have been established and, as such, form part of the overall internal control system established by management. External audit, on the other hand, provides objective information, advice and assurance to the General Assembly by conducting, completely independently, both financial audits and examinations of the efficiency of the administration and management of the Organization. In principle, the nature of the work carried out by the two entities will vary because the needs of the General Assembly and the Secretary-General will be different; the work of internal audit will usually be at a more detailed level.

5. The Panel views internal audit as part of the Organization's system of internal controls and as an essential tool assisting the Secretary-General in the discharge of his responsibility for managing the United Nations. It is the responsibility of the external auditors, the Board of Auditors, to provide independent support to the General Assembly in its task of holding the Secretary-General accountable for the discharge of those responsibilities.

6. These principles are drawn from the standards and guidelines adopted by the International Organization of Supreme Audit Institutions (INTOSAI). All of the members of the Panel are also members of INTOSAI and subscribe to its guiding principles and precepts.

7. The Panel would view as a retrograde step any reorganization that would involve a single organization or unit carrying out both external and internal audit functions. In such a situation the different roles and reporting responsibilities would lead to conflicting priorities and confused loyalties resulting in a poorer, not better, service to both the General Assembly and the Secretary-General.

8. The Panel also believes that it is important for there to be a single independent external audit function. If, as has been proposed, there is a second external agency also reporting to the General Assembly covering the work now undertaken by the Internal Audit Division and other central evaluation units, there would be a number of problems. First, confusion in defining the respective roles of the two agencies and the danger of unhealthy competition

rather than effective coordination. Secondly, there would be a significant diminution in the audit service available to assist the Secretary-General if the focus shifts to reporting to the General Assembly rather than providing him with direct support. This would hamper his ability to discharge his responsibilities as chief executive of the Organization. Finally, such a system is likely to require considerable additional resources, particularly if the Secretary-General has to recreate his own in-house internal audit service, something the Panel would consider very necessary.

9. Notwithstanding these comments and the different functions of external and internal audit, INTOSAI's standards recognize that there should be a high level of coordination between them to ensure that there is an effective use of all audit resources. Adequate coordination may be achieved through periodic meetings to discuss matters of mutual interest; access to each others' audit programmes and permanent documentation; access to audit reports and management letters; and a common understanding of audit techniques, methods and terminology. The external auditor should also be in a position, through review of internal audit's programme of work and a representative sample of their working papers and reports, to comment on the adequacy of internal audit performance and coverage. Where this is found to be deficient, the Board of Auditors can report to the General Assembly and indeed has done so previously on a number of occasions. Where, however, internal audit coverage and performance is of a good standard, the external auditors can gain commensurate assurance about the general quality of the internal control in the Organization and consequently reduce the extent of their own work.

Office for Inspections and Investigations

10. Against this background the Panel very much welcomes any moves to strengthen the function and capacity of the United Nations internal audit and evaluation units. The Panel was unanimous in its clear support for the internal changes the Secretary-General has made, in particular the creation of the Office for Inspections and Investigations. In doing so, it agrees fully with the analysis and conclusions of the Joint Inspection Unit in its report entitled "Accountability and oversight in the United Nations Secretariat" (A/48/420, annex).

11. The merger of the main internal oversight units (Internal Audit Division, Central Evaluation Unit, Central Monitoring Unit and Management Advisory Service) into the Office for Inspections and Investigations will provide a clearer focus on priority areas, better coordination and the more efficient and effective use of the available resources. The appointment of an officer at the Assistant Secretary-General level to head the Office, with a direct reporting link to the Secretary-General, first underlines the importance that the Organization attaches to these functions and, secondly, reinforces the day-to-day independence of the internal oversight function within the Organization while keeping it firmly within the Secretary-General's sphere of responsibility.

Further improvements

12. The creation of the Office for Inspections and Investigations is a good first step but much has to be done to build on this framework. The Panel

considers that there are three key areas where further improvements are required if the internal oversight functions are to operative effectively. These are:

(a) Support from senior management;

(b) Quality and professionalism of staff;

(c) Role the Office for Inspections and Investigations is required to fulfil.

13. A number of national studies in both the public private sectors have found very clearly and very strongly that the support of senior management is absolutely essential if internal audit is to be an effective, contributing part of the Organization. It is clear that, in large measure, internal audit is whatever senior management wants it to be. To a great extent, the relationship between internal audit and senior management determines the respect and cooperation it receives from operating managers. In essence, senior management must visibly support internal audit if an effective internal audit function is to exist.

14. The Secretary-General's decision to set up the Office for Inspections and Investigations is one clear sign of his support. However, while a few individual senior managers do overtly support and use internal audit, the Board of Auditors has found no general sense of corporate commitment to the internal audit function within the United Nations. In too many quarters it is viewed as an imposition rather than as a positive force leading to improved management efficiency. For example, there is very little evidence of any ongoing dialogue to enable internal audit to discuss key issues and concerns with senior management; or for top management to discuss its business concerns with internal audit.

15. This lack of clear support is also manifest in the failure of the Organization to act on many of internal audit's recommendations and in the slow response to its reports. The Panel believes firmly that this lack of response arises from the management culture of the United Nations and should not be blamed on the internal audit, which has no executive responsibility and has discharged its function when weaknesses and problems are identified.

16. Therefore, the Panel considers that stronger and more visible support from senior management would assist in generating more effective internal oversight. But internal audit must earn that support. It must, through its observations and recommendations, measurably contribute to the Organization as a whole by delivering a product that justifies the support and recognition of senior management.

17. In its report on the biennium 1990-1991, 1/ the Board of Auditors commented adversely on a number of aspects of the work carried out by the Internal Audit Division. In particular, it noted deficiencies in audit planning, the standard of audit work and limitations in the professional resources available to the Unit. The Panel believes that the quality and scope of the work carried out by internal audit needs to be brought up to best professional standards. This can be achieved only if the new Office for Inspections and Investigations can

recruit or train staff with the necessary skills to do the job. While the new Office has made a start in these areas, it does not have the flexibility or resources to make the necessary changes sufficiently quickly to make rapid progress in the short or medium term.

18. As the Joint Inspection Unit has already noted (A/48/420, annex, para. 179), the merger of the main internal oversight units will not of itself bring about an improvement in the quality of the output. The Panel considers that some additional resources may be necessary. But this is not a simple question of the number of people employed; rather it is a question of the skills and experience those people possess and whether the Office has the flexibility to attract the right candidates. The Office must also work to improve its working methods and raise the quality of the output. The Panel welcomes the adoption of INTOSAI's auditing standards by the Office for Inspections and Investigations. But these standards were drawn up for external audit and in a few areas are inappropriate to internal audit or do not cover the full range of internal audit activity. For detailed guidance on the practice of internal audit, the Panel recommends that the standards and guidelines of the Institute of Internal Auditors be also adopted. The simple adoption of standards is of itself insufficient; a great deal needs to be done to make them a reality at the working level.

19. The internal oversight mechanisms are not a surrogate for good management. The Panel considers that much of the debate on this issue has focused too much on the role of the internal oversight mechanisms in uncovering waste, fraud, corruption and compliance with rules and regulations. These concerns are also reflected strongly in the terms of reference of the new Office for Inspections and Investigations. The Panel recognizes that these aspects are an essential element of internal control but considers that they have been considerably overemphasized.

20. Internal oversight mechanisms should give more attention to their role as a principal support to management by offering constructive and innovative recommendations to improve the overall management of programmes. They should be promoters of effective management, not merely policemen. The reality is that it is better to prevent waste, fraud and abuse before they occur rather than detect them after the event. Good prevention comes from good management and solid internal control.

21. In conclusion, the Panel believes that the existing framework provides a solid base for the internal oversight mechanisms of the United Nations, but that at the detailed level much can be done to improve their efficiency and effectiveness.

22. The Panel would be happy to elaborate on these views if Member States would find it helpful.

(Signed) John BOURN
Chairman, Panel of External Auditors of
the United Nations, the specialized agencies
and the International Atomic Energy Agency
Chairman, United Nations Board of Auditors

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Notes

1/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 5 and corrigendum (A/47/5), vol. I and Corr.1, paras. 288-310.

APPENDIX

Members of the Panel of External Auditors of the United Nations, the specialized agencies and the International Atomic Energy Agency

*Sir John Bourn, KCB, Chairman Comptroller and Auditor General of the United Kingdom	United Kingdom of Great Britain and Northern Ireland
*Mr. Osei T. Prempeh, Vice-Chairman Auditor-General of Ghana	Ghana
Mr. Jérome Van de Velde Premier Président de la Cour des Comptes de Belgique	Belgium
Mr. François Faessler Deputy Director Swiss Federal Audit Office	Switzerland
Mr. L. Denis Desautels, FCA Auditor-General of Canada	Canada
Dr. Franz Fiedler President, Court of Audit	Austria
Mr. Pierre Joxe Premier Président de la Cour des Comptes de France	France
*Mr. C. G. Somiah Comptroller and Auditor General of India	India

* Member of the United Nations Board of Auditors.